# HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

**CWP No.1697 of 2002**

**Date of Decision: 16.5.2007**

Girish Kumar ……. Petitioner

Versus

Union of India & Others …….. Respondents.

***Coram***:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

***Whether approved for reporting? No***

For the petitioner : Mr. Pankaj Sharma, Advocate.

For the respondents : Mr. Ashwani Pathak, Central Govt. Counsel.

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**Sanjay Karol, J (Oral)**

This judgment is being dictated in open Court in presence of the learned counsel for the parties.

The petitioner has filed the present writ petition praying for the following relief:

i) that the impugned order of reversion passed vide Annexure P-8 (dated 2.11.2001) and vide Annexure P-9 (dated 7.11.2001) may kindly be quashed and set aside. Further, the petitioner may be held entitled continuous in the service as Regular Mazdoor and be held entitled for all consequential benefits including the seniority etc.

ii) That the refusal made by the respondent No.4 by way of note on Annexure P-11 dated 7.9.2002 may kindly be held null and void and further the respondent No.4 may kindly be directed to take the joining of the

petitioner along with the medical certificates / fitness certificate etc.

iii) That the respondents may kindly be directed to produce the entire record pertaining to the case of the petitioner specially the record maintained by the respondent under whom he had been working since January, 1996 till the impugned order of reversion was passed.

iv) That the respondents may be burdened with the cost of this civil writ petition.

v) Any other orders which are deemed just and proper in the facts and circumstances of the case may also be passed in favour of the petitioner and against the respondents.

In the counter affidavit, the respondents have taken the preliminary objections that respondents being an Industry, the present lis is, therefore, to be decided in accordance with the provisions of Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act').

Keeping in view the facts and circumstances of the present case and particularly that there is a dispute with regard to the number of days, the petitioner has served with the respondents, it would be appropriate that the petitioner exercises his remedies under the provisions of the Act.

Learned counsel for the respondents submits that a reference under Section 10 of the Act, shall be made positively within a period of three months from today. It is directed that the said reference shall be decided by the Tribunal within a period of six months thereafter. The matter

has not been decided on merits, therefore, the parties can raise all pleas as may be available to them. The writ petition is disposed of accordingly.

**( Sanjay Karol )**
**Judge.**

**May 16, 2007.**
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